

PLAINTIFF/PETITIONER/MOVANT'S NAME **BENJAMIN D. RODRIGUEZ** **FILED**

PRISON NUMBER **F-72457**

2007 DEC -3 PM 3:03

PLACE OF CONFINEMENT **F2-9-2314**

CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

ADDRESS **R.J. Donovan**

BY **RM** DEPUTY

**P.O. Box 799002  
San Diego, CA. 92179-9002**

**United States District Court  
Southern District Of California**

Plaintiff/Petitioner/Movant

v.

Defendant/Respondent

Civil No. **07CV 251 DMS (CAB)**  
(TO BE FILLED IN BY U.S. DISTRICT COURT CLERK)

**MOTION AND DECLARATION UNDER  
PENALTY OF PERJURY IN SUPPORT  
OF MOTION TO PROCEED IN FORMA  
PAUPERIS**

I,  
declare that I am the Plaintiff/Petitioner/Movant in this case. In support of my request to proceed without prepayment of fees or security under 28 U.S.C. § 1915, I further declare I am unable to pay the fees of this proceeding or give security because of my poverty, and that I believe I am entitled to redress.

**In further support of this application, I answer the following question under penalty of perjury:**

1. Are you currently incarcerated? ☒ Yes ☐ No (If "No" go to question 2)

If "Yes," state the place of your incarceration

Are you employed at the institution? ☐ Yes ☒ No

Do you receive any payment from the institution? ☐ Yes ☒ No

[Have the institution fill out the Certificate portion of this affidavit and attach a certified copy of the trust account statement from the institution of your incarceration showing at least the last six months transactions.]

2. Are you currently employed? ☐ Yes ☒ No

a. If the answer is "Yes," state the amount of your take-home salary or wages and pay period and give the name and address of your employer.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. If the answer is "No" state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

I was self employed I drove an ICE CREAM  
Truck Vender. Nov. 2005 \$ 2000.00 monthly.

3. In the past twelve months have you received any money from any of the following sources?:

- |   |   |
|---|---|
| a. Business, profession or other self-employment  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| b. Rent payments, royalties interest or dividends | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| c. Pensions, annuities or life insurance          | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| d. Disability or workers compensation             | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| e. Social Security, disability or other welfare   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| f. Gifts or inheritances                          | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| g. Spousal or child support                       | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| g. Any other sources                              | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |

If the answer to any of the above is "Yes" describe each source and state the amount received and what you expect you will continue to receive each month.

\_\_\_\_\_  
\_\_\_\_\_

4. Do you have any checking account(s)? ☐ Yes ☒ No

a. Name(s) and address(es) of bank(s): \_\_\_\_\_

b. Present balance in account(s): \_\_\_\_\_

5. Do you have any savings/IRA/money market/CDS' separate from checking accounts? ☐ Yes ☒ No

a. Name(s) and address(es) of bank(s): \_\_\_\_\_

b. Present balance in account(s): \_\_\_\_\_

6. Do you own an automobile or other motor vehicle? ☐ Yes ☒ No

a. Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

b. Is it financed? ☐ Yes ☒ No

c. If so, what is the amount owed? \_\_\_\_\_

7. Do you own any real estate, stocks, bonds, securities, other financial instruments, or other valuable property?

☐ Yes ☒ No

If "Yes" describe the property and state its value. \_\_\_\_\_

8. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support. *N/A.*

9. List any other debts (current obligations, indicating amounts owed and to whom they are payable): *N/A*

10. List any other assets or items of value (specify real estate, gifts, trusts inheritances, government bonds, stocks, savings certificates, notes, jewelry, artwork, or any other assets [include any items of value held in someone else's name]): *N/A*

11. If you answered all of the items in #3 "No," and have not indicated any other assets or sources of income anywhere on this form, you must explain the sources of funds for your day-to-day expenses.

*I m INCARCERATED ~~with~~ with no income  
I only have the remaining money from  
County jail.*

**I declare under penalty of perjury that the above information is true and correct and understand that a false statement herein may result in the dismissal of my claims.**

DATE

*Nov. 19, 07*

SIGNATURE OF APPLICANT

*Benjamin D. Rodriguez*

If you are a **prisoner** you must have an officer from your institution provide this official certificate as to the amount of money in your prison account. There are no exceptions to this requirement.

**PRISON CERTIFICATE**  
**(Incarcerated applicants only)**  
 (To be completed by the institution of incarceration)

I certify that the applicant BENJAMIN D Rodriguez  
 (NAME OF INMATE)  
F 72457  
 (INMATE'S CDC NUMBER)

has the sum of \$ \_\_\_\_\_ on account to his/her credit at \_\_\_\_\_  
RJ Donovan  
 (NAME OF INSTITUTION)

I further certify that the applicant has the following securities \_\_\_\_\_  
 to his/her credit according to the records of the aforementioned institution. I further certify that **during**  
**the past six months** the applicant's *average monthly balance* was \$ 470.52  
 and the *average monthly deposits* to the applicant's account was \$ Ø

ALL PRISONERS **MUST** ATTACH A CERTIFIED COPY OF THEIR TRUST ACCOUNT  
STATEMENT SHOWING TRANSACTIONS FOR THE SIX-MONTH PERIOD  
IMMEDIATELY PRECEDING THE FILING OF THE COMPLAINT PER 28 U.S.C. § 1915(a)(2).

11/29/07  
 DATE

/s/ LAZARO, O  
 SIGNATURE OF AUTHORIZED OFFICER OF INSTITUTION

O. LAZARO  
 OFFICER'S FULL NAME (PRINTED)

CORRECTIONAL OFFICER  
 OFFICER'S TITLE/RANK

**TRUST ACCOUNT WITHDRAWAL AUTHORIZATION**  
(Incarcerated applicants only)

(This form **MUST** be completed by the prisoner requesting to proceed in forma pauperis. An incomplete "Trust Account Withdrawal Authorization Form," or "Prison Certificate" will result in automatic denial of the prisoner's request to proceed in forma pauperis.)

I, BENJAMIN D. RODRIGUEZ F72457, request and authorize the agency holding me in  
(Name of Prisoner/ CDC No.)  
custody to prepare for the Clerk of the United States District Court for the Southern District of California, a certified copy of the statement for the past six months of my trust fund account (or institutional equivalent) activity at the institution where I am incarcerated.

I further request and authorize the agency holding me in custody to calculate and disburse funds from my trust fund account (or institutional equivalent) pursuant to any future orders issued by the Court relating to this civil action pursuant to the Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, Title VIII, §§ 801-10, 110 Stat. 1321 (1996).

This authorization is furnished in connection with a civil action filed in the Southern District of California, and I understand that, pursuant to 28 U.S.C. §§ 1914 and 1915(b)(1), the total amount of filing fees for which I am obligated is either ☐ \$350 (civil complaint) or ☒ \$5 (habeas corpus petition) (check one). I also understand that this fee will be debited from my account regardless of the outcome of this action. This authorization shall apply to any other agency into whose custody I may be transferred.

DATE

11-19-07

Benjamin D. Rodriguez  
SIGNATURE OF PRISONER

REPORT ID: TS3030 .701

REPORT DATE: 11/07/07

PAGE NO: 1

CALIFORNIA DEPARTMENT OF CORRECTIONS  
 R.J.DONOVAN CORR. FACILITY  
 INMATE TRUST ACCOUNTING SYSTEM  
 INMATE TRUST ACCOUNT STATEMENT

FOR THE PERIOD: MAR. 01, 2007 THRU NOV. 07, 2007

ACCOUNT NUMBER : F72457                      BED/CELL NUMBER: F20900000000231U  
 ACCOUNT NAME : RODRIGUEZ, BENJAMIN              ACCOUNT TYPE: I  
 PRIVILEGE GROUP: U

## TRUST ACCOUNT ACTIVITY

## TRAN

DATE	CODE	DESCRIPTION	COMMENT	CHECK NUM	DEPOSITS	WITHDRAWALS	BALANCE
03/01/2007		BEGINNING BALANCE					0.00
05/25	D300	CASH DEPOSIT	5019/R&R		700.00		700.00
06/06	D320	TRUST FUNDS T	5225/SDCJ		0.09		700.09
06/06	FC02	DRAW-FAC 2	5228/F21ST			50.00	650.09
07/17	FR01	CANTEEN RETUR	700260			9.80-	659.89
08/07	FC02	DRAW-FAC 2	0632/F21ST			90.00	569.89
09/13	FC02	DRAW-FAC 2	1356/F22ND			90.00	479.89
09/20	W516	LEGAL COPY CH	1526/SEP07			2.20	477.69
10/16	FR01	CANTEEN RETUR	701995			57.83-	535.52
10/16	FC02	DRAW-FAC 2	1984/F22ND			60.00	475.52
10/17	W536	COPAY CHARGE	2020/OCT07			5.00	470.52

## TRUST ACCOUNT SUMMARY

BEGINNING BALANCE	TOTAL DEPOSITS	TOTAL WITHDRAWALS	CURRENT BALANCE	HOLDS BALANCE	TRANSACTIONS TO BE POSTED
0.00	700.09	229.57	470.52	0.00	0.00

CURRENT  
 AVAILABLE  
 BALANCE

470.52



THE WITHIN INSTRUMENT IS A CORRECT  
 COPY OF THE TRUST ACCOUNT MAINTAINED  
 BY THIS OFFICE. 11-7-2007  
 ATTEST:

CALIFORNIA DEPARTMENT OF CORRECTIONS

BY

TRUST OFFICE